



DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[Docket No. ICEB-2022-0011]

RIN 1653-ZA31

Employment Authorization for Burmese F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Crisis in Burma (Myanmar)

AGENCY: U.S. Immigration and Customs Enforcement; Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Burma, regardless of country of birth (or individuals having no nationality who last habitually resided in Burma), and who are experiencing severe economic hardship as a direct result of the current crisis in Burma. The Secretary is taking action to provide relief to these Burmese students who are lawful F-1 nonimmigrant students so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F-1 nonimmigrant student status. The U.S. Department of Homeland Security (DHS) will deem an F-1 nonimmigrant student granted employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This notice is effective November 26, 2022, through May 25, 2024.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC 20536-5600; e-mail: sevp@ice.dhs.gov, telephone: (703) 603-3400. This is not a toll-free number. Program information can be found at <https://www.ice.gov/sevis/>.

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary is exercising authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F-1 nonimmigrant students whose country of citizenship is Burma regardless of country of birth (or individuals having no nationality who last habitually resided in Burma), who are present in the United States in lawful F-1 nonimmigrant student status on the date of publication of this notice, and who are experiencing severe economic hardship as a direct result of current crisis in Burma. Effective with this publication, suspension of the employment limitations is available through May 25, 2024, for those who are in lawful F-1 nonimmigrant status on the date of publication of this notice. DHS will deem an F-1 nonimmigrant student granted employment authorization through this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.¹ *See* 8 CFR 214.2(f)(6)(i)(F).

¹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of May 25, 2024, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to U.S. Immigration and Customs Enforcement (ICE) coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Aug. 5, 2022).

Who is covered by this notice?

This notice applies exclusively to F-1 nonimmigrant students who meet all of the following conditions:

- (1) Are a citizen of Burma regardless of country of birth (or an individual having no nationality who last habitually resided in Burma);
- (2) Were lawfully present in the United States in F-1 nonimmigrant status under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i), on the date of publication of this notice;
- (3) Are enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F-1 nonimmigrant students;
- (4) Are currently maintaining F-1 nonimmigrant status; and
- (5) Are experiencing severe economic hardship as a direct result of the current crisis in Burma.

This notice applies to F-1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school grades 9 through 12, and undergraduate and graduate education. An F-1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice.

Why is DHS taking this action?

DHS is taking action to provide relief to Burmese F-1 nonimmigrant students experiencing severe economic hardship due to exigent circumstances in Burma caused by the February 2021 military coup, which has led to continuing violence, arbitrary detentions, use of lethal violence against peaceful protesters, and the worsening of humanitarian conditions. Based on its review of country conditions in Burma and input received from the U.S. Department of State (DOS), DHS is taking action to allow eligible F-1 nonimmigrant students from Burma to request employment authorization, work an

increased number of hours while school is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

Since the military coup d'état on February 1, 2021, the Burma military regime has widely committed human rights violations and abuses, including arbitrary detentions and the unwarranted use of deadly force against unarmed individuals. As a result of the crisis, nearly one million people are currently internally displaced throughout the country, bringing the total number of IDPs to nearly 1.3 million with pre-coup displacements, , while more than 45,500 additional persons have sought refuge outside Burma since the coup.² Internally displaced persons and other vulnerable populations throughout the country now lack adequate and secure access to shelter, food, water and sanitation, health care, and education. Inflation and a shrinking economy are compounding this crisis and straining already under-resourced relief efforts.³

In the period following the coup, fighting between the Burmese military and groups (many of them newly formed) resisting the military's seizure of power have expanded to most parts of the country, even regions that had previously seen little fighting ”⁴ . The report noted that the military has escalated ~~the~~⁵ the crisis in Burma has caused over a million people to flee the country as refugees or to be displaced internally. Furthermore, though estimates are difficult to verify, about 12,700 “houses, churches, monasteries, and schools” appear to have been destroyed since the start of the violence, a level of destruction that “will make internally displaced persons returns more difficult

² *Myanmar Humanitarian Update No.18*, U.N. Office for the Coordination of Humanitarian Affairs (OCHA), May 31, 2022, pp. 2, 7-8, 14, available at: <https://reliefweb.int/report/myanmar/myanmar-humanitarian-update-no-18-31-may-2022> (last visited June 8, 2022).

³ *Id.*

⁴ *Myanmar's Coup Shakes Up Its Ethnic Conflicts*, International Crisis Group, Jan. 12, 2022, available at: <https://www.crisisgroup.org/asia/south-east-asia/myanmar/319-myanmars-coup-shakes-its-ethnic-conflicts> (last accessed May 27, 2022).

⁵ *Report of the Special Rapporteur on the situation of human rights in Myanmar*, Thomas H. Andrews, U.N. Human Rights Council, Mar. 16, 2022, available at: <https://www.ohchr.org/en/documents/country-reports/ahrc4976-report-special-rapporteur-situation-human-rights-myanmar-thomas> (last accessed May 27, 2022).

⁶ *Id.*

even if the situation improves.”⁷

The coup has also exacerbated the precarious human rights situation of members of the ethnic minority Rohingya, a group against whom the Secretary of State determined that members of the Burmese military had committed genocide and crimes against humanity.⁸ Rohingya are forbidden by law from relocating within Burma and have been arrested since the 2021 coup when they have attempted to do so.⁹ Rohingya attempting to flee Burma by boat have also perished at sea, as happened in May 2022, when 14 people died when their boat capsized as they were attempting to make the journey from Rakhine state to Malaysia.¹⁰

As of May 31, 2022, 13.2 million persons [in Burma?] were estimated to face moderate to severe food insecurity with the greatest needs in areas affected by fighting.¹¹ Access to adequate food and nutrition is a major unmet need. Severe acute malnutrition is a threat to life, with only 2 percent of the 39,477 children aged 6-59 months old targeted for assistance having received treatment.¹² In some places, relief agencies are only recently beginning to be able to provide assistance to those rendered vulnerable by the destruction of property. Lack of resources, strong storms and heavy rain, and access and movement restrictions limit the United Nations (U.N.) and its partners from providing assistance to all of those in need. As of September 2022, only 50 percent (3.1 million people) of those targeted for relief in the U.N.’s 2022 Humanitarian Response Plan (6.2 million people) had been reached with humanitarian assistance.¹³

⁷ Myanmar Humanitarian Update No. 18, *supra*, p. 2.

⁸ *Genocide, Ethnic Cleansing, and Crimes Against Humanity in Burma*, U.S. Department of State, undated, available at: <https://www.state.gov/burma-genocide/> (last visited May 25, 2022).

⁹ *Myanmar’s military coup prolongs misery for Rohingya in Rakhine*, Al-Jazeera, Jan. 6, 2022, available at: <https://www.aljazeera.com/news/2022/1/6/rohingya-myanmar-restrictions-on-freedom-of-movement> (last visited May 31, 2022).

¹⁰ *At Least 17 Perish as Refugee Boat Capsizes Off Myanmar Coast*, The Diplomat, May 24, 2022, available at: <https://thediplomat.com/2022/05/at-least-17-perish-as-refugee-boat-capsizes-off-myanmar-coast/> (last visited May 31, 2022).

¹¹ Myanmar Humanitarian Update No. 18, *supra*, p. 8.

¹² *Id.*, p. 9.

¹³ *Id.*, p.2.

The ongoing violence and the resulting displacement in Burma have caused major vulnerabilities related to (1) shelter, (2) food security and nutrition, (3) water, sanitation and hygiene (WASH), (4) health and (5) education for persons in Burma.¹⁴ Lack of personnel, facilities and supplies is contributing to a “worsening of maternal and child health outcomes,” as well as “poor emergency care” for pregnant women, victims of fighting, and persons with other related and unrelated injuries, all of which is anticipated to result in increased numbers of avoidable deaths.¹⁵

The coup and the instability it has created (within and outside of Burma) have deteriorated Burma’s economic conditions, worsening the crisis. The Burmese currency, the kyat, has experienced extreme volatility since the coup, as Burma’s economy shrank by 18% in the year leading up to September 2021, critical services such as banking, telecommunications, health, and education were disrupted, and economic sanctions that had been lifted as Burma had transitioned toward democracy were reimposed.¹⁶ Increasing commodity prices, particularly for food and fuel, are causing distress for thousands of people across the country. In addition to affecting Burmese people’s purchasing power for essential items such as food, rising prices are beginning to affect the work of relief agencies, particularly those supplying food and shelter.¹⁷

In summary, more than a year after the Burmese military perpetrated a coup, human rights violations and abuses, including sexual violence, disappearances, excessive use of force, and killings, are occurring in most parts of the country. As a result, more than one million people are currently internally displaced throughout the country, while more than 45,500 additional persons have sought refuge in neighboring countries giving rise to major vulnerabilities related to shelter, food security, and the country’s economy.

¹⁴ *Id.*

¹⁵ *Id.*, pp. 8-9.

¹⁶ *Myanmar Central Bank Orders Government Agencies to Stop Using Foreign Currencies*, The Diplomat, May 27, 2022, available at: <https://thediplomat.com/2022/05/myanmar-central-bank-orders-government-agencies-to-stop-using-foreign-currencies/> (last visited May 31, 2022).

¹⁷ Myanmar Humanitarian Update No. 18, *supra*, pp. 2, 7-8, 14.

As of July 27, 2022, approximately 2,140 F-1 nonimmigrant students from Burma are enrolled at SEVP-certified academic institutions in the United States. Given the extent of the current crisis in Burma, affected students whose primary means of financial support comes from Burma may need to be exempt from the normal student employment requirements to continue their studies in the United States. The current crisis has made it unfeasible for many students to safely return to Burma for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

What is the minimum course load requirement to maintain valid F-1 nonimmigrant status under this notice?

Undergraduate F-1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term. Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B) and (F). A graduate-level F-1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). Nothing in this notice affects the applicability of other minimum course load requirements set by the academic institution.

In addition, an F-1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load

requirement, unless their course of study is in an English language study program.¹⁸ *See* 8 CFR 214.2(f)(6)(i)(G). An F-1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain “class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,” as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

May an eligible F-1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. An F-1 nonimmigrant student who is a Burmese citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in Burma), who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F-1 nonimmigrant student may benefit without having to apply for a new Form I-766, Employment Authorization Document (EAD). To benefit from this notice, the F-1 nonimmigrant student must request that their designated school official (DSO) enter the following statement in the remarks field of the student’s Student and Exchange Visitor Information System (SEVIS) record, which the student’s Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, will reflect:

¹⁸ DHS considers students who are compliant with ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such COVID-19 guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, <https://www.ice.gov/coronavirus> (last visited Aug. 5, 2022).

Approved for more than 20 hours per week of [DSO must insert “on-campus” or “off-campus,” depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student’s employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently authorized for off-campus employment), or the end date of this notice, whichever date comes first].¹⁹

Must the F-1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her “full course of study”?

No. DHS will deem an F-1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a “full course of study”²⁰ for the duration of the student’s employment authorization, provided that a qualifying undergraduate level F-1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F-1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B) and (F). DHS will

¹⁹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of May 25, 2024, provided the student satisfies the minimum course load requirements in this notice.

²⁰ *See* 8 CFR 214.2(f)(6).

not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F-1 nonimmigrant status.

Will an F-2 dependent (spouse or minor child) of an F-1 nonimmigrant student covered by this notice be eligible for employment authorization?

No. An F-2 spouse or minor child of an F-1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F-2 nonimmigrant status, consistent with 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F-1 visa and makes an initial entry into the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory requirements only applies to certain F-1 nonimmigrant students who meet the following conditions:

(1) Are a citizen of Burma regardless of country of birth (or an individual having no nationality who last habitually resided in Burma);

(2) Were lawfully present in the United States in F-1 nonimmigrant status, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i) on the date of publication of this notice;

(3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F-1 nonimmigrant students;

(4) Are maintaining F-1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the current crisis in Burma.

An F-1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements

(even if experiencing severe economic hardship as a direct result of the current crisis in Burma).

Does this notice apply to a continuing F-1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F-1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such an F-1 nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I-20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F-1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F-1 status?

Yes. However, this notice does not by itself reduce the required course load for F-1 nonimmigrant students from Burma enrolled in kindergarten through grade 12 at a private school, or grades 9 through 12 at a public high school. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation, as required under 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F-1 nonimmigrant students regardless of educational level. Eligible F-1 nonimmigrant students from Burma enrolled in an elementary school, middle school, or high school may benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session.

On-Campus Employment Authorization

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F-1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F-1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible F-1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the student's SEVIS record, which will be reflected on the student's Form I-20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].²¹

To obtain on-campus employment authorization, the F-1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the current crisis in Burma. An F-1 nonimmigrant student authorized by the DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time employment on-campus when

²¹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of May 25, 2024, provided the student satisfies the minimum course load requirements in this notice.

school is not in session or during school vacations apply, as described in 8 CFR

214.2(f)(9)(i).

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain his or her F-1 nonimmigrant student status?

Yes. DHS will deem an F-1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a “full course of study”²² for the purpose of maintaining their F-1 nonimmigrant student status for the duration of the on-campus employment, if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if the reduction would not meet the academic institution’s minimum course load requirement for continued enrollment.²³

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F-1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

(a) The requirement that a student must have been in F-1 nonimmigrant student status for one full academic year to be eligible for off-campus employment;

²² See 8 CFR 214.2(f)(6).

²³ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

(b) The requirement that an F-1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;

(c) The requirement that limits an F-1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while the school is in session; and

(d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

Will an F-1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F-1 nonimmigrant status?

Yes. DHS will deem an F-1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a "full course of study"²⁴ for the purpose of maintaining F-1 nonimmigrant student status for the duration of the student's employment authorization if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F).

However, the authorization for a reduced course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.²⁵

²⁴ See 8 CFR 214.2(f)(6).

²⁵ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

How may an eligible F-1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F-1 nonimmigrant student must file a Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the current crisis in Burma.²⁶ Filing instructions are located at <https://www.uscis.gov/i-765>.

Fee considerations. Submission of a Form I-765 currently requires payment of a \$410 fee. An applicant who is unable to pay the fee may submit a completed Form I-912, Request for Fee Waiver, along with the Form I-765, Application for Employment Authorization. *See* www.uscis.gov/feewaiver. The submission must include an explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c).

Supporting documentation. An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to their DSO:

- (1) This employment is necessary to avoid severe economic hardship; and
- (2) The hardship is a direct result of the current crisis in Burma.

If the DSO agrees that the F-1 nonimmigrant student is entitled to receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on that student's Form I-20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I-766 until [DSO must

²⁶ *See* 8 CFR 274a.12(c)(3)(iii).

insert the program end date or the end date of this notice, whichever date comes first].²⁷

The F-1 nonimmigrant student must then file the properly endorsed Form I-20 and Form I-765 according to the instructions for the Form I-765. The F-1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that an F-1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

(a) The F-1 nonimmigrant student is in good academic standing and is carrying a “full course of study”²⁸ at the time of the request for employment authorization;

(b) The F-1 nonimmigrant student is a citizen of Burma, regardless of country of birth (or an individual having no nationality who last habitually resided in Burma), and is experiencing severe economic hardship as a direct result of the current crisis in Burma, as documented on the Form I-20;

(c) The F-1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of this notice and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level;²⁹ and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the current crisis in Burma.

²⁷ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of May 25, 2024, provided the student satisfies the minimum course load requirements in this notice.

²⁸ See 8 CFR 214.2(f)(6).

²⁹ 8 CFR 214.2(f)(5)(v).

Processing. To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F-1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes the following documents:

(1) A completed Form I-765 with all applicable supporting evidence;

(2) The required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c); and

(3) A signed and dated copy of the student's Form I-20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase "SPECIAL STUDENT RELIEF."

Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I-765, USCIS will send the student a Form I-766 EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Temporary Protected Status (TPS) Considerations

Can an F-1 nonimmigrant student apply for TPS and for benefits under this notice at the same time?

Yes. An F-1 nonimmigrant student who has not yet applied for TPS or for other relief that reduces the student's course load per term and permits an increased number of work hours per week, such as Special Student Relief,³⁰ under this notice has two options.

Under the first option, the nonimmigrant student may apply for TPS according to the instructions in the USCIS notice designating Burma for TPS elsewhere in this issue of the Federal Register. All TPS applicants must file a Form I-821, Application for

³⁰ See DHS Study in the States, Special Student Relief, <https://studyinthestates.dhs.gov/students/special-student-relief> (last visited Aug. 5, 2022).

Temporary Protected Status with the appropriate fee (or request a fee waiver). Although not required to do so, if F-1 nonimmigrant students want to obtain a new TPS-related EAD that is valid through May 25, 2024, they must file Form I-765 and pay the Form I-765 fee (or request a Fee Waiver). An F-1 student who already has a TPS-related EAD will benefit from an automatic extension of the EAD through November 25, 2023, through the Federal Register notice extending the designation of Burma for TPS. A Burma TPS-related EAD can also be automatically extended for up to 540 days³¹ if an F-1 nonimmigrant student who is a TPS beneficiary properly files a renewal Form I-765 application and pays the Form I-765 fee (or requests a Fee Waiver) during the filing period described in the Federal Register notice extending the designation of Burma for TPS, but no later than October 26, 2023. After receiving the TPS-related EAD, an F-1 nonimmigrant student may request that their DSO make the required entry in SEVIS, issue an updated Form I-20, as described in this notice, and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate their nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains TPS, then the student maintains F-1 status and TPS concurrently.

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing Form I-765 with the location specified in the filing instructions. At the same time, the F-1 nonimmigrant student may file a separate TPS application but must submit the Form I-821 according to the instructions provided in the Federal Register notice designating Burma for TPS. If the F-1 nonimmigrant student has already applied for employment authorization under Special Student Relief, they are not required to submit the Form I-765 as part of the TPS application. However, some

³¹ 8 CFR 274a.13(d)(5).

nonimmigrant students may wish to obtain a TPS EAD in light of certain extensions that may be available to EADs with an A-12 or C-19 category code that are not available to the C-3 category under which Special Student Relief falls. The nonimmigrant student should check the appropriate box when filling out Form I-821 to indicate whether a TPS-related EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F-1 nonimmigrant student status while having TPS.

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F-1 nonimmigrant student must maintain normal course load requirements for a “full course of study”³² unless or until the nonimmigrant student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (e.g., clock hours for non-traditional academic programs). Once approved for Special Student Relief employment authorization, the F-1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), (f)(6), and (f)(9)(i) and (ii).

³² *See* 8 CFR 214.2(f)(6).

How does a student who has received a TPS-related EAD then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. The F-1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the current crisis in Burma. The DSO will then verify and update the student's record in SEVIS to enable the F-1 nonimmigrant student with TPS to reduce the course load without any further action or application. No other EAD needs to be issued for the F-1 nonimmigrant student to have employment authorization.

Can a noncitizen who has been granted TPS apply for reinstatement of F-1 nonimmigrant student status after the noncitizen's F-1 nonimmigrant student status has lapsed?

Yes. Regulations permit certain students who fall out of F-1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before publication of this notice, and therefore fell out of student status. These students must satisfy the criteria set forth in the F-1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until May 25, 2024,³³ to eligible F-1 nonimmigrant students. DHS will continue to monitor the situation in Burma. Should the

³³ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of May 25, 2024, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Aug. 5, 2022).

special provisions authorized by this notice need modification or extension, DHS will announce such changes in the Federal Register.

Paperwork Reduction Act (PRA)

An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the current crisis in Burma must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653-0038.

This notice also allows an eligible F-1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

To apply for employment authorization, certain F-1 nonimmigrant students must complete and submit a currently approved Form I-765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I-765, consistent with the PRA (OMB Control No. 1615-0040). Although there will be a slight increase in the number of Form I-765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I-765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro Mayorkas,
Secretary,

U.S. Department of Homeland Security.

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